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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/856,812	09/07/2001	Lan-Qing Huang	L0461/7115	3475
23628	7590	12/28/2005	EXAMINER	
WOLF GREENFIELD & SACKS, PC FEDERAL RESERVE PLAZA 600 ATLANTIC AVENUE BOSTON, MA 02210-2211			DAVIS, MINH TAM B	
			ART UNIT	PAPER NUMBER
			1642	

DATE MAILED: 12/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER
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ART UNIT	PAPER
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20051212

DATE MAILED:

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**Commissioner for Patents**

See attached.

### DETAILED ACTION

Applicant elects in the response of 11/31/05 group I, claims 1, 2, 4, 5, 9-12, and 17, species a specific fragment of SEQ ID NO:1, SEQ ID NO:42.

Applicant adds new claims 42-54.

The response of 11/31/05 is non-responsive for the following reasons:

It is noted that a reply to the restriction requirement must include an identification of the species that is elected consonant with this requirement, and **a listing of all claims readable thereon**, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

As presently amended in the response of 11/31/05, the species and claims readable thereon are as follows:

1) Claims 1-2, 17, and new claims 50, 52-54 belong to the species SEQ ID NO:1, or fragment thereof.

2) Claims 4, 5, 11-12, and new claims 42-49, 51 belong to several species of any one of the nonapeptides, or 93 amino acid sequences comprising said nonapeptides, having any one combination of one possibility for each of the amino acid adjacent to the N-terminal amino acid, amino acid position 3, amino acid position 4, amino acid position 7, amino acid position 8, C terminal amino acid, **including the possibility of unspecified amino acid at an amino acid position**. **If Applicant elects one species of the above group of species of Claims 4, 5, 11-12, and new**

**claims 42-49, 51, Applicant is required to list all claims readable thereon, including any claims subsequently added.**

3) Claim 9 belongs to the species of SEQ ID NO:42.

4) Claim 9 also belongs to the species of SEQ ID NO:43.

5) Claim 10 belongs to the species of SEQ ID NO:44.

6) Claim 10 also belongs to the species of SEQ ID NO:45.

It is further noted that the species fragment of SEQ ID NO:1 as claimed in claims 1-2, 17, 50, 52-54 is generic to: a) the species of any one of the specific nonapeptide sequences or 93 amino acid sequences comprising said nonapeptides, and b) SEQ ID Nos: 42-45.

The species do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

According to PCT Rule 13.2, unity of invention exists only when the shared same or corresponding technical feature is a contribution over the prior art.

The technical feature of group I, a nucleic acid molecule comprising SEQ ID NO:1 or MAGE-10 is known in the art (De Plaen, E, 1994, Immunogenetics, 40: 360-369), as admitted in the specification, on page 2, lines 24-25, and p.3, second paragraph, p.25, under Brief description of the sequences).

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims

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are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is given a ONE MONTH time limit or until the expiration of the response period set in the last Office action, whichever is longer, to complete the response. NO EXTENSION OF THIS TIME LIMIT WILL BE GRANTED UNDER EITHER 37 CAR 1.136(a) OR (b) but the period for response set in the last office action may be extended up to a maximum of SIX MONTHS.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MINH-TAM DAVIS whose telephone number is 571-272-0830. The examiner can normally be reached on 9:00 AM-5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JEFFREY SIEW can be reached on 571-272-0787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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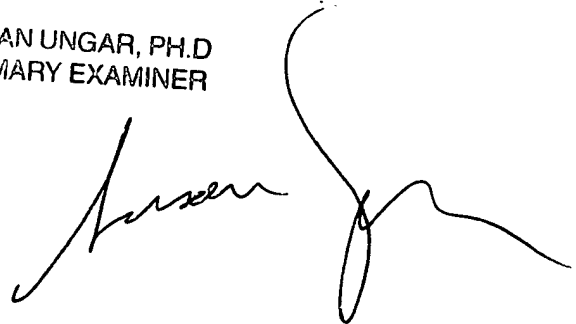
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Respectfully,

MINH TAM DAVIS

November 13, 2005

SUSAN UNGAR, PH.D  
PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read 'Susan', followed by a large, stylized flourish or loop.